

**Hon. Clark Waddoups**

**MOTION FOR EXTENSION OF TIME OR, ALTERNATIVELY,  
FOR SERVICE UPON THE CLERK OF THE COURT**

Plaintiff Walter L. Wagner respectfully moves for an extension of time in which to effect service of the Summons and Complaint on the remaining un-served defendants, or alternatively to be allowed to effect service by leaving the Summons and Complaint with the Clerk of the Court.

Rule 4(m) of the Federal Rules of Civil Procedure (FRCP) gives plaintiff 120 days in which to serve the defendants, but if the plaintiff shows good cause, the “*court must extend the time for service for an appropriate period.*” The First Amended Complaint was filed on October 4, 2011, and the 120-day time-frame will expire on February 1, 2012. In that plaintiff has thus far served only defendant WBGI, plaintiff requests an extension of time, or alternatively to be allowed service by leaving the Summons with the Clerk of this Court.

Rule 6(b)(1)(a) of the FRCP allows that when an act “*may or must be done within a specified time, the court may, for good cause, extend the time (A) with or without motion or notice if the courts acts, or if a request is made, before the original time or its extension expires.*”

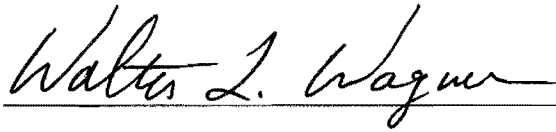
In this matter, plaintiff has been unable to serve the remaining unserved defendants because he does not have valid addresses for them, and defendant WBGI has not been forthcoming with providing him with that information. Plaintiff has attempted to locate valid addresses without success, and needs additional time in which to do so, or alternatively, to leave the Summons and Complaint with this Court's Clerk.

Rule 5(b)(2)(D) of the FRCP allows that a paper is served under the rule by "leaving it with the court clerk if the person has no known address."

Pursuant to the above Rule, plaintiff will leave copies of the Summons and Complaint with this Court's clerk. This will allow defendant WBGI to obtain them from this Court's Clerk for service upon WBGI's officers (current and former), which would be the easiest and most effective method of service, in light of the lack of known (to plaintiff) addresses for the other named defendants, and the ability for defendant WBGI's counsel to readily transmit the Summons and Complaint to WBGI's officers (present and recent past).

Plaintiff requests a determination that the above method constitutes acceptable service.

DATED: January 23, 2012

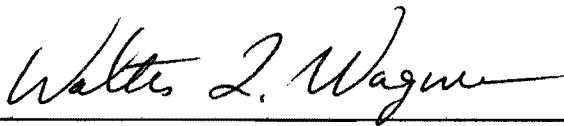
A handwritten signature in cursive script, reading "Walter L. Wagner", is written over a horizontal line.

Walter L. Wagner

#### CERTIFICATE OF SERVICE

I certify that the above document was served on Arnold Richer, 901 W. Baxter Drive, South Jordan, UT 84095 by placing same in the US Mail addressed to Mr. Richer, postage thereon fully prepaid on January 23, 2012.

DATED: January 23, 2012

A handwritten signature in cursive script, reading "Walter L. Wagner", is written over a horizontal line.

Walter L. Wagner

UNITED STATES DISTRICT COURT

for the  
District of Utah

\_\_\_\_\_  
Walter L. Wagner

Plaintiff

v.

\_\_\_\_\_  
Preston Michie, et al.

Defendant

)  
)  
) Civil Action No. 2:11cv00784  
)  
)

**Summons in a Civil Action**

To: *(Defendant's name and address)*

Steve Bryant  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

\_\_\_\_\_  
D. MARK JONES

Name of clerk of court

Date: 01/23/2012

\_\_\_\_\_  
Deputy clerk's signature

*(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)*

UNITED STATES DISTRICT COURT

for the  
District of Utah

Walter L. Wagner

Plaintiff

v.

Preston Michie, et al.

Defendant

Civil Action No. 2:11cv00784

Summons in a Civil Action

To: *(Defendant's name and address)*

Annette Emerson  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

D. MARK JONES

Name of clerk of court

Date: 01/23/2012

Deputy clerk's signature

*(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)*

AO 440 (Rev. 04/08) Civil Summons

# UNITED STATES DISTRICT COURT

for the  
District of Utah

\_\_\_\_\_  
Walter L. Wagner

Plaintiff

v.

\_\_\_\_\_  
Preston Michie, et al.

Defendant

)  
)  
) Civil Action No. 2:11cv00784  
)  
)

## Summons in a Civil Action

To: *(Defendant's name and address)*

Mark Robinson  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

\_\_\_\_\_  
D. MARK JONES

Name of clerk of court

Date: 01/23/2012

\_\_\_\_\_  
Deputy clerk's signature

*(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)*

UNITED STATES DISTRICT COURT

for the  
District of Utah

\_\_\_\_\_  
Walter L. Wagner

Plaintiff

v.

\_\_\_\_\_  
Preston Michie, et al.

Defendant

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)  
) Civil Action No. 2:11cv00784  
)  
)

**Summons in a Civil Action**

To: *(Defendant's name and address)*

Leslie Cobos  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

\_\_\_\_\_  
D. MARK JONES

Name of clerk of court

Date: 01/23/2012

\_\_\_\_\_  
Deputy clerk's signature

*(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)*



UNITED STATES DISTRICT COURT

for the  
District of Utah

\_\_\_\_\_  
Walter L. Wagner

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
v.

\_\_\_\_\_  
Preston Michie, et al.

\_\_\_\_\_  
Defendant

)  
)  
) Civil Action No. 2:11cv00784  
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**Summons in a Civil Action**

To: *(Defendant's name and address)*

Kenneth Francik  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

\_\_\_\_\_  
D. MARK JONES

Name of clerk of court

Date: 01/23/2012

\_\_\_\_\_  
Deputy clerk's signature

*(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)*

UNITED STATES DISTRICT COURT

for the  
District of Utah

\_\_\_\_\_  
Walter L. Wagner

Plaintiff

v.

\_\_\_\_\_  
Preston Michie, et al.

Defendant

)  
)  
) Civil Action No. 2:11cv00784  
)  
)

**Summons in a Civil Action**

To: *(Defendant's name and address)*

Preston Michie  
c/o Court Clerk

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Walter L. Wagner  
532 N 700 E  
Payson, UT 84651

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

\_\_\_\_\_  
D. MARK JONES

Name of clerk of court

Date: 01/23/2012

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Deputy clerk's signature

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